

AGENDA NO. 7

PLANNING DIVISION

MEMORANDUM

DATE: August 23, 2010

TO: Chairperson and Members of the Planning Commission

FROM: Jerry Hittleman, City Planner 

SUBJECT: **RECOMMENDATION TO SET A HEARING DATE FOR THE REVOCATION OF DEVELOPMENT PLAN D-19-03 AND CONDITIONAL USE PERMIT C-29-03, ASSOCIATED PLANNING COMMISSION RESOLUTIONS 2004-P22 AND 2007-P46.**

Pursuant to Section 4108.E Revocation of the Zoning Ordinance, a use permit or variance that is exercised in violation of a condition of approval or a provision of the Zoning Ordinance may be revoked, as provided in [Section 4704].

Pursuant to Section 4704.A Duties of the [City Planner], upon determination by the [City Planner] that there are reasonable grounds for considering revocation or modification of a use permit [or] variance ... a revocation hearing shall be set by the ... Planning Commission.

The City Planner recommends that the Planning Commission set October 25, 2010 as a hearing date for the revocation of Development Plan (D-19-03) and Conditional Use Permit (C-29-03), and Planning Commission Resolution No. 2004-P22, and 2007-P46 (attached). Public notice of the hearing is required by Section 4704.B.

The City Planner makes this recommendation, because the "Owners" Joseph and Barbara Warsoff did on March 16, 2005 at the San Diego Records Office have recorded via document number 2005-0214848 a Declaration of Covenants, Conditions, & Restrictions on Real Property known as the Oceansider identifying on-site and off-site improvements required to be made on the Property as a condition of any development of the property, and in accordance with Resolution 2004-P22, and the applicant's demonstrated lack of compliance with specific conditions of approval numbers 28, 29, and 30 of said resolution. On August 16, 2010, the applicant was given notice of the City Planner's Report to the Planning Commission.

Planning Commission Resolution No. 2004-P22 was approved by the Planning Commission on May 24, 2004 with specific requirements to be satisfied as part of the sites overall development. The following three conditions of approval have not been completed:

28. The project shall install a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site. The median shall be approximately 250 feet in length beginning at the intersection of Vine Street, and be of sufficient length to restrict left

turns from the adjacent Best Western motel driveway east of the project site. The median shall be designed and constructed to the satisfaction of the Transportation Manager.

29. The project shall install a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp. The turn pocket shall be designed to Caltrans design standards.

30. "Right Turn Only" signs shall be installed on both driveway approaches from the project site onto Oceanside Boulevard.

Planning Commission Resolution No. 2007-P46 was approved by the Planning Commission on September 24, 2007 granting a time extension for Development Plan (D-19-03) and Conditional Use Permit (C-29-03) and included condition of approval number two that emphasized median improvements shall be constructed prior to the issuance of certificate of occupancy, unless otherwise approved by the City Engineer, and to date has not been completed.

On June 2, 2010 City Staff contacted Mr. Warsoff via letter identifying the following timeline of actions taken to satisfy the required improvements, and the actions that have led to the lack of compliance necessary to satisfy the required conditions of approval:

Mr. Warsoff authorized Cornerstone Engineering to design and prepare an improvement plan for the raised median and the signage. Mr. Warsoff asked his Engineer to process the plans with the City of Oceanside and Caltrans. The Engineer of Work submitted the improvement plan number R-13923 to the Engineering Division on October 10, 2007. The improvement plan was reviewed by Engineering staff and approved by the City Engineer on March 12, 2008.

City Engineering staff members, Marty Eslambolchi and Jim Knowlton met with Mr. Warsoff and his Engineer, Mr. Borax in early March 2008 regarding the raised median construction. In the meeting Mr. Warsoff requested that staff grant him an occupancy permit prior to constructing the raised median; due to a lack of funds, and under the premise that he would acquire sufficient financial support within 6-months. However, to date, Mr. Warsoff has not fulfilled his obligation as discussed in that meeting and in compliance with the resolution of approval.

The City Engineer reiterated that Mr. Warsoff had not complied with Condition number 2 of the time extension resolution of approval that was approved by the Planning Commission on September 24, 2009. Condition number 2 re-emphasized the requirement of the raised median improvement on Oceanside Boulevard along the project frontage.

The City Engineer gave Mr. Warsoff thirty days from the date of the letter to inform staff of his action plans and timetable for obtaining the required permit from Caltrans and commencement date of construction. Mr. Warsoff has failed to respond to the letter, and was further informed that he is bound to comply with the recorded declaration of covenants, conditions and restriction and that his lack of response would require City Staff to initiate revocation of his Development Plan and Conditional Use Permit.